

**MINUTES OF THE
IDAHO STATE BOARD OF PHARMACY
June 3, 2010**

Coeur D'Alene Resort
Coeur D'Alene, Idaho

This meeting of the Board is held to conduct regular Board business.

Chairman Nicole Chopski, Pharm D, called the meeting to order at 8:00 a.m. In attendance were Board members Berk Fraser, R.Ph.; Holly Henggeler, Pharm D; Kitty Gurnsey and Rich de Blaquiére, Pharm D; Mark Johnston, R.Ph, executive director; Jenifer Marcus, DAG; Jan Atkinson, Senior Compliance Officer; Fred Collings, Chief Investigator, and Ellen Mitchell.

Dr. Henggeler motioned to approve the minutes of the April 23, 2010 meeting with minor corrections. Mr. Fraser seconded, motion carried unanimously.

The Institutional Rules Review Committee (IRRC) members include Linda Czirr, R.Ph, Jim Jurgens, RPh, Taylor Neilson, RPh., Kurt Vanden Bosch, Pharm D, Troy Jackman, Pharm D, Marilyn Silcock, Pharm D, Nicki Chopski, Pharm D, Dorsie Sullenger, R.Ph., Wade Flowers, Pharm D (critical access hospital representative), Mike Dickens, R.Ph. and Mark Johnston, R.Ph. IRCC has met 4 times via teleconference over the last few months. Ms. Czirr, presented proposed language from the committee on pharmacist absence, automated pharmacy systems, night cabinets, R.N. distribution of medication from hospital emergency rooms, nursing home emergency kits, emergency kits or crash carts, sterile products and non-institutional facility home health nurses. The Board is pleased with the work that has been done on these rules, suggests several changes, and thanks Ms. Czirr and the committee for their input and hard work on this project.

Al Carter, Pharm D presented Walgreens' 'Stickerless' Program. After discussion the board believes Walgreens' program meets Idaho law.

Cody Bright, ISU Pharm D candidate currently on rotation with the Board presented his research on state laws and rules regarding pharmacist administered vaccines. Mr. Bright's research indicates a wide variety of education and training requirements across the country, but none exist in Idaho. While the Pharmacy Practice Act allows pharmacists to administer and thus immunize, no further regulation exists. Although a pharmacist has statutory authority to administer vaccines, vaccines are Rx items and thus either a patient specific prescription or a valid collaborative practice agreement is required. It is reported that many Idaho pharmacists are vaccinating under protocol agreements that fall short of the required collaborative practice agreement

requirements. The Board directed Mr. Johnston to educate the pharmacy community by posting a sample collaborative practice agreement on the website and draft immunization rules.

Mr. Johnston presented the request from reciprocity candidate Mark S Loessi for the Board to reduce the required number of intern hours. Mr. Loessi has been working in IT for the last several years and has been offered a position with St Lukes RMC in Boise. His position will be a combination of IT and pharmacy related work. Dr. Henggeler motioned to require Mr. Loessi to complete 200 hours of internship at a registered preceptor site, Mr. Fraser seconded. Following discussion the motion carried unanimously.

Melissa Moody, DAG has been reassigned within the Attorney General's office and is no longer representing the Board. Karin Magnelli, DAG has taken over some of Ms. Moody's agencies including the Board of Pharmacy. Ms. Magnelli comes to us with prosecution experience gained as City Attorney for Boise, Occupational Licensing Board and the Board of Nursing. The Board welcomes Ms. Magnelli.

Ms. Magnelli presented the case regarding Merit Pharmaceuticals. Evone Faha, Designated Representative for Merit addressed the Board. Ms. Faha indicated her company has come into full compliance with Idaho laws and apologized for their mis-step of providing pharmaceuticals to an unauthorized person. Ms. Faha referenced the letter written to the Board indicating how the situation occurred and the steps Merit has taken to ensure it never happens again. Ms. Faha also provided Policy & Practice regarding license verification that Merit is now using. Mr. Fraser motioned to accept the Order as written, Ms. Gurnsey seconded, motion carried unanimously.

Ms. Magnelli presented the case regarding Jason Jungert, Pharm D. Dr. Henggeler motioned to accept the voluntary surrender and revoke his pharmacist license and controlled substance registration. Ms. Gurnsey seconded. During discussion John Southworth made himself available to the Board for questions regarding this case. Dr. Chopski requested a linear correction to Idaho Code on page 2. After discussion Dr. Chopski called for a vote, motion carried unanimously.

Mr. Fraser goes on the record that if Mr. Jungert doesn't complete at least a ninety day program he won't be interested in hearing his case for reinstatement.

Jenifer Marcus, DAG presented the request for reconsideration and reinstatement from Michael Gardner, R.Ph. Mr. Gardner was represented by Counsel Dennis Sallaz and Ray Shiles of Sallaz & Gatewood PLLC. Mr. Sallaz and Mr. Shiles attended the meeting via teleconference. Ms. Gurnsey motioned to not reconsider this case. Motion failed due to lack of a second. Mr. Fraser motioned to reconsider this matter, Dr. Henggeler seconded. After discussion the motion carried with 3 votes for, Ms. Gurnsey opposed.

Mr. Sallez indicated their case is laid out in the brief previously provided to the Board. It is noted Mr. Gardner has not been convicted of a felony nor had he completed a substance abuse treatment program. Dr. de Blaquiére clarified at the time of the Board's decision in this case Mr. Gardner had not completed a treatment program, Mr. Gardner has now completed a 90 treatment program. Dr. Chopski reiterates the Board's decision was not based on a felony conviction but was based on the evidence presented. Ms. Magnelli cited the 1987 case of Brown, which is similar to this case, in which the court supported the Board's decision to suspend the license. After further discussion Mr. Fraser motioned to allow the original stipulation to stand. Ms. Gurnsey seconded, motion carried unanimously.

Mr. Johnston presented IC 54-1755 as it related to electronic trace pedigree requirements. The Board granted, by unanimous consent, to extend the implementation of this requirement to July 1, 2012.

Mr. Johnston presented information from the most recent legislative session: "During the hearing for the Idaho Epilepsy Act, the Senate Health and Welfare Committee heard testimony from physicians, pharmacists, pharmacy students, and patients who testified that they constantly did not receive counseling on new prescriptions. Senator Coiner made a motion to hold the bill in committee because he did not think the bill was necessary. His motion failed. After the hearing, Senator Coiner approached Mr Johnston and explained the reasoning for his motion. He felt that if the pharmacist was doing their job (counseling), that the bill was unnecessary, but it was obvious to everyone in the room that pharmacists were not doing their jobs. Senator Coiner demanded that the Board bring back legislation in 2011 strengthening counseling requirements.

Our only counseling requirement lies in statute 54-1749. "*When filling a prescription, a pharmacist shall complete a prospective drug review and then offer to counsel the patient or caregiver face-to-face when possible or appropriate*". The Board has traditionally interpreted "*when possible or appropriate*" to refer to "*counseling*". One potential avenue to address Senator Coiner's demands involves simply interpreting "*when possible or appropriate*" to refer to "*face-to-face*". Thus, the offer to counsel by the pharmacist is required. Mr. Johnston suggests the Board establish via policy that the counseling requirement only pertain to new medications. By unanimous consent the Board directs Mr. Johnston to post a clarification of the law on the website and in the newsletter.

Mr. Johnston presented the letter written to the Board of Medicine regarding physician dispensing; their meeting will be held June 4, 2010. The Board commended Mr. Johnston on the information provided in the letter.

The DEA E-prescribing rules became effective June 1, 2010. Mr. Johnston indicated that the required security parameters are not in place thus, e-prescribing of controlled substances will not be functional for several months. Much work remains to understand

what Idaho Code and Board rules need to be changed in 2011 to allow e-prescribing on controlled substances in Idaho. The Board directed Mr. Johnston to share this information during law programs and to post information on the website as early as possible.

Mr. Johnston obtains Board approval on draft language that would create limited prescriptive authority for pharmacists to prescribe CV controlled substances, so that pharmacists may provide better health care and the data can be submitted to the PMP database.

Mr. Johnston presented the request from Karen Ewing of the Board of Veterinary Medicine (BOVM) regarding euthanasia drugs administered by technicians. The Board of Pharmacy currently has to approve drug formulary changes. Dr. Henggeler motioned to withdraw the Board from this process. Mr. Fraser seconded, motion carried unanimously.

Lynette Berggren and Mr. Johnston presented an update on the rules rewrite project. Discussion regarding Rule 75 Electronic Record Keeping was tabled along with the labeling rule, until drug outlet rules have been completed. The Board finalizes pharmacist and PIC minimum responsibilities with one change. The Board considers many additions to the definition of unprofessional conduct; after much discussion Ms Berggren is directed to bring proposed language back to Board that details their desires. The proposed rules concerning drugs are considered for the first time and approved with changes to theft loss reports and drug returns. Current poison rules are struck. The Board considers proposed language for retail drug outlets, but decides that much of the language pertains to all practice settings. Ms Berggren is directed to rework this section.

Mr. Johnston reminded the Board this is the last meeting of the fiscal year requiring nomination and voting of officers for the following year. Mr. Fraser motioned for Dr. de Blaquiére to be Vice Chair, Dr. Henggeler seconded, motion carried unanimously. As Vice Chair, Dr. Henggeler becomes Chair.

The Board's calendar and finances are briefly discussed.

Mr. Fraser motioned to adjourn, Dr. Henggeler seconded. Motion carried unanimously. Meeting adjourned at 6:05 p.m.